



CITY OF BLUE LAKE

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DATE: December 17, 2020

FROM: Garry Rees, City Planner

TO: Blue Lake City Council

RE: Amendment of the General Plan Land Use Element and Title 17 (Zoning) of the Municipal Code

At the May 26, 2020 City Council meeting, the Council received the recommendations from the Planning Commission for amendment of the General Plan Land Use Element and Title 17 (Zoning) of the Municipal Code. At the May meeting, a public hearing was held and comments were received from various members of the public and businesses in the Powers Creek District. Based on the comments received and Council deliberation, the City Council provided the following direction to staff:

- Revise the “Lighting/Glare” performance standard in the Opportunity zone to lower the maximum height for stand-alone fixtures from 30 to 25 feet vertical.
- Bring back information about how other jurisdictions regulate the type and color of lighting to reduce lighting impacts.
- Bring back information about outdoor lighting standards used by other jurisdiction besides the 1-foot candle standard recommended by the Planning Commission.

At the June 23, 2020 City Council meeting, staff presented the Council with the requested revisions to the draft Opportunity zone and examples of outdoor lighting standards from other jurisdictions related to requirements for minimizing lighting impacts. At the June meeting, a public hearing was held and comments were received from various members of the public. Based on the comments received and Council deliberation, the City Council provided the following direction to staff:

- Revise the “Lighting/Glare” performance standard in the Opportunity Zone to require compliance with the requirements of the International Dark Sky Association for outdoor lighting.
- Revise the “Lighting/Glare” performance standard in the Opportunity Zone to lower the maximum height for stand-alone fixtures to 20 feet vertical.
- Revise the “Lighting/Glare” performance standard in the Opportunity Zone to state that the lighting source (e.g., bulb, lamp, etc.) shall not be visible offsite.
- Provide examples of 25, 35, and 45+ foot tall structures to assist the Council in determining the appropriate height requirements for the Opportunity Zone.

At the July 28, 2020 City Council meeting, staff presented the Council with the requested revisions to the draft Opportunity zone and examples of various structure heights to assist the Council in determining the appropriate height requirements for the Opportunity zone. At the July meeting, a public hearing was held and comments were received from various members of the public. Based on the comments received and Council deliberation, the City Council provided the following direction to staff:

- Remove the limitations on the number of building stories from the height standards in the Opportunity zone.
- Revise the Opportunity zone to allow a maximum height of 45 feet north of Taylor Way.
- Revise the Opportunity zone to require a shadow analysis north of Taylor Way for all structures over 25 feet in height and within 50 feet of the closest edge of the Powers Creek trail system.

At the August 25, 2020 City Council meeting, staff presented the Council with the requested revisions to the draft Opportunity zone. At the August meeting, a public hearing was held and comments were received from various members of the public. Based on the comments received and Council deliberation, the City Council provided the following direction to staff:

- Staff should further research shadow analysis standards and thresholds used by other jurisdictions and bring back information to the Council for consideration. Items for consideration should include:
 - What is an appropriate threshold for when shadowing is considered excessive?
 - What are appropriate standards for submittal requirements for a shadow analysis?

At the November 24, 2020 City Council meeting, staff presented the Council with preliminary findings about shadow analysis standards. Staff explained that developing shadow analysis standards would require establishing a standard on what amount of shadowing is excessive. Due to the complexity of the issue and the variety of ways jurisdictions have addressed shadow analysis standards, staff requested additional time to prepare a recommendation to the Council. Alternatively, staff explained that if the Council was motivated to move the Opportunity zone through the adoption process, it may be more appropriate to remove the requirement for a shadow analysis and provide a clear development standard for maximum building height and creek/trail setbacks north of Taylor Way. Staff further explained that if a particular applicant wanted to propose a project that exceeds any of the development standards, they would have the option of applying for a Conditional Use Permit (CUP) under Section C(3) of the Opportunity zone. As part of processing a CUP under this section, staff would have the ability to request a shadow analysis if it was determined that shadowing may be an issue for a project.

Similar to past meetings, at the November meeting a public hearing was held and comments were received from various members of the public. Based on the comments received and Council deliberation, the City Council provided the following direction to staff:

- Revise the O zone development standards to refer to compliance with the Solar Shade Protection Act (Public Resources Code § 25980 – 25986).
- Revise the O zone to require a maximum building height of 35 feet for structures north of Taylor Way.

- Revise Section C(3) of the O zone to state that staff may require technical studies to be prepared (e.g., solar shade analysis, visual impact assessment, etc.) for a Conditional Use Permit application that requests exceptions to the O zone development standards.
- Bring back the figure illustrating the maximum building height and trail setback requirements recommended by the Planning Commission.

As directed by the Council, attached is a revised version of the O zone that contains the above revisions and the figure illustrating the maximum building height and trail setback requirements recommended by the Planning Commission. Also attached for reference is the text of the Solar Shade Protection Act (Public Resources Code § 25980 – 25986). The prior revisions to the Opportunity zone are shown in **bolded** text and the new revisions are **bolded and underlined**. All language removed from the Opportunity zone is shown with strikethroughs.

RECOMMENDATION:

Staff recommends that the City Council:

- 1) Receive a report from staff about the revisions to the Opportunity zone and the figure illustrating the maximum building height and trail setback requirements recommended by the Planning Commission.
- 2) Open the public hearing and take public testimony.
- 3) Close the public hearing.
- 4) Provide direction to City Staff on the next steps in the planning process for the proposed amendments to the General Plan and Municipal Code.
- 5) Continue the public hearing and the opportunity for public comment to the January 26, 2021 City Council meeting.

17.16.111 Opportunity or O Zone.

A. Purpose

1. The Opportunity Zone or O Zone is intended to allow for the compatible and beneficial mixture of commercial, manufacturing, and residential uses in a single structure or on a single or multiple sites in a manner consistent with the City's General Plan Goals and Policies.
2. This zone is primarily intended for commercial and manufacturing uses with residential dwellings as a secondary use to promote a live-work type environment. As a secondary use, residential dwellings shall be located above or behind the primary commercial or manufacturing uses.
3. This zone encourages craft-type manufacturing businesses with retail commercial spaces on the ground floor and multi-family residential development on the upper floors.
4. This zone is designed to achieve a convenient business and residential environment in areas where multiple activities and an increased degree of pedestrian orientation and open space are considered to be desirable.
5. New structures and additions to existing structures shall be required to meet specific design standards.
6. Land uses in this zone shall be required to meet specific performance standards.

B. Principal Permitted Uses.

1. **Light Manufacturing and Processing.** This use type includes craft and art manufacturing businesses which manufacture items from wood, ceramics, fabric, metals or glass; food and beverage processing and bottling; and light to moderate manufacturing of products such as household goods, clothing, recreational goods, electrical products, furniture, architectural products, and automotive goods. This use type can include other light manufacturing and processing uses which in the opinion of the City Planner are of the same general character, are consistent with the purpose and intent of this section, and will not be obnoxious or detrimental to the district.
2. **Distribution and Associated Warehousing.** This use type includes nurseries and greenhouses (non-cannabis), distribution warehouses for consumer products, and indoor and outdoor storage facilities. This use type can include other distribution and associated warehousing uses which in the opinion of the City Planner are of the same general character, are consistent with the purpose and intent of this section, and will not be obnoxious or detrimental to the district.

3. **Commercial Services.** This use type includes a variety of commercial services of both a light and heavy commercial character. Light commercial uses include stores, agencies, and services such as food markets, bakery shops, restaurants, bars, art galleries, book stores, clothing stores, pharmacies, beauty and barber shops, hardware and appliance stores, laundry facilities (excluding dry cleaning), florists, tailor shops, enclosed theaters, and music venues. Heavy commercial uses include equipment rental, repair of engines or appliances, furniture repair shops, contractor shops and yards (including carpentry, electrical, plumbing, painting, printing, publishing, lithograph shops and other artistic endeavors). This use type can include other commercial services which in the opinion of the City Planner are of the same general character, are consistent with the purpose and intent of this section, and will not be obnoxious or detrimental to the district.
4. **Professional Offices and Services.** This use type includes administrative and research activities; radio and television broadcasting stations and offices; medical, dental and related services; and professional consulting, real estate and financial services. It also includes personal service shops, such as banks, grooming services, visitor service facilities or businesses of a similar nature. This use type can include other professional offices and services which in the opinion of the City Planner are of the same general character, are consistent with the purpose and intent of this section, and will not be obnoxious or detrimental to the district.
5. **Recreation and Education.** This use type includes trails and outdoor recreational uses (e.g. sports fields, sports complex, outdoor performance venues, etc.), public and commercial recreational facilities and schools and training programs in the areas of arts, crafts and light manufacturing. It can include RV/camping facilities, performance or art studios, theaters, or other venues for public assembly. This use type can include other recreation and education uses which in the opinion of the City Planner are of the same general character, are consistent with the purpose and intent of this section, and will not be obnoxious or detrimental to the district.
6. **Public Works Facilities.** This use includes a City corporation yard and includes but is not limited to public works improvements, storage of materials, temporary holding of animals, and maintenance and repair of City equipment and vehicles.
7. **Four or Fewer Residential Dwellings Units.** This use type allows up to four residential units at a maximum density of 1 unit per 2,500 square feet of lot area. Such residential units can include, but are not limited to, studios, condominiums, townhouses, and apartments. For the purposes of the Opportunity (O) Zone, a residential dwelling unit is defined as having two or more bedrooms. One-bedroom units are allowed at a density of 1 per 1,250 square feet of lot area, or a total of 8 one-bedroom units as a principally permitted use. To be principally permitted, the residential units shall not be located on the ground floor of a structure and shall not exceed 35 percent of the floor area of a structure.

C. Uses Permitted with a Use Permit.

1. Five or More Residential Dwelling Units. This use type allows five or more residential units at a maximum density of 1 unit per 2,500 square feet of lot area. Such dwellings can include, but are not limited to, studios, condominiums, townhouses, and apartments. For the purposes of the Opportunity (O) Zone, a residential unit is defined as having two or more bedrooms. One-bedroom units are allowed at a density of 1 per 1,250 square feet of lot area. This use type allows nine or more one-bedroom units. With a use permit, the residential units shall not exceed 65 percent of the floor area of a structure. With a use permit, the residential units may also be located on the ground floor of a structure, but shall not front directly on the street or other non-vehicular access corridor (e.g. pedestrian/bicycle trails) and shall not exceed 50% of the floor area of the ground floor.
2. Other Uses. Listed uses that are not specifically principally permitted in the O Zone or not determined by the City Planner to be consistent with other principally permitted uses in the O Zone. This includes any other use which, in the opinion of the Planning Commission, is consistent with the intent of the zone, and will not constitute a nuisance or be detrimental to the district or surrounding land uses.
3. Exception to Development Standards. Projects that do not meet all the requirements in subsection D (Other Regulations), but due to specific project design and amenities conform to the purpose and intent of this section. **As part of the review for this application type, additional technical studies may be required at the discretion of City staff to address potential impacts of the proposed exceptions. This could include, but is not limited to, preparation of a visual impact assessment, shadow analysis, biological report, lighting study, and noise study. Any technical studies required shall be prepared by a qualified professional as determined by City staff.**

D. Other Regulations.

Specific site development guidelines have been prepared based on the design intent for the Opportunity (O) Zone. The objective of the guidelines is to help integrate buildings and other improvements with the topography and landscape to create a unified environment which is harmonious with the adjacent visual panorama.

1. Minimum lot area: 15,000 square feet.
2. Building coverage shall not exceed 70% of lot area.
3. Building height limit: ~~Not exceeding 45 feet vertical.~~
 - a. North of Taylor Way: Not exceeding ~~two stories and 25~~**35** feet vertical, ~~within 50 feet horizontal of the closest edge of the trail that runs parallel to~~

~~Powers Creek. Not exceeding two stories and 35 feet vertical beyond 50 feet horizontal of the closest edge of the trail that runs parallel to Powers Creek.~~

- b. South of Taylor Way: Not exceeding ~~three stories and~~ 45 feet vertical.

~~4. Shadow Analysis:~~

- ~~a. North of Taylor Way: A shadow analysis shall be required for structures over one story feet and within 50 feet horizontal of the closest edge of the Powers Creek District trail system. Excessive shading may affect landscaping, result in higher energy costs, and lessen the enjoyability of yards, public parks, open space areas, trails, and the Powers Creek riparian corridor. For these reasons, the extent, direction, and duration of project-generated shadows are considered in the project review.~~
- ~~b. South of Taylor Way: A shadow analysis shall be required for structures exceeding 35 feet vertical.~~
- ~~c. Shadow studies submitted for review must be professionally prepared, either by an architect, engineer, or design professional. The shadow analysis shall be reviewed by the Planning Commission through the Site Plan Approval process as specified in Section 17.24.250.~~

~~54.~~ Setbacks:

- a. No building or parking or storage area shall be constructed within 50 feet horizontal of the centerline of the main branch of Powers Creek or its tributaries (e.g., South Fork Powers Creek). The zone thus created, 50 feet horizontal from the centerline of Powers Creek outward, shall be preserved primarily as an area of riparian vegetation. Trails, art installations, interpretive signs, lighting, benches, picnic areas, and habitat enhancement projects are allowable within this setback area.
- b. North of Taylor Way: For properties west of Monda Way and for parcel 025-201-018, no building or parking or storage area shall be constructed within 25 feet horizontal of the closest edge of the trail that runs parallel to Powers Creek. This area is intended to be reserved for open space and other amenities such as landscaping, art, and benches.

For properties east of Monda Way, excluding parcel 025-201-018, no building or parking or storage area shall be constructed within 10 feet horizontal of the property line that runs parallel to Powers Creek or its tributaries.

- c. South of Taylor Way: Buildings that exceed 25 feet vertical shall be

required to be located a minimum of 25 feet horizontal from any public right-of-way.

- d. No building or parking or storage area shall be constructed within 50 feet horizontal of the boundary of the Blue Lake Rancheria. The zone thus created, 50 feet horizontal from the boundary of the Blue Lake Rancheria, shall be preserved as an undeveloped area of open space or riparian vegetation.
- ~~65~~. Manufacturing uses in this zone are required to be located on the ground floor of a structure.
- ~~76~~. Residential uses in this zone are required to be situated and designed to minimize impacts from adjacent heavy commercial and industrial uses.
- ~~87~~. Parking and loading areas:
- a. Sufficient onsite parking, as prescribed in Sections 17.24.100 and 17.24.230, shall be provided for employees, visitors, and company vehicles.
 - b. The City Planner may waive off-street parking otherwise required if sufficient parking is proposed to be provided at a common off-site parking area. This shall not apply to accessible off-street parking spaces required by the American with Disabilities Act (ADA) or California Building Code.
 - c. Off-street loading as prescribed in Section 17.24.110.
- ~~98~~. Utilities:
- a. All site improvements shall be designed to accommodate underground utilities and shall be required to convert to such as they become available. Utilities shall include, but are not limited to, drainage systems, sanitary sewers, gas, water, power, cable and telephone.
 - b. Within each site, utility lines may be located above ground if they are incorporated and concealed within buildings, trellises, or special architectural features.
 - c. Temporary overhead power and telephone lines will be permitted during construction, but are to be removed upon completion of construction.
- ~~109~~. Landscaping: A landscaping plan will be required for each site showing the locations, names, and initial sizes of plant materials, irrigation plan and groundcover materials. Ongoing maintenance and replacement (when needed) is a

requirement of all uses within the O zone. The City Planner will review each landscaping plan for approval. Landscape requirements are defined in Section 17.24.240. Where possible, required landscaping areas may also serve as areas for infiltration of stormwater runoff, subject to review and approval by the City Engineer. **Landscaping shall be maintained to comply with the requirements of the Solar Shade Protection Act (Public Resources Code § 25980 – 25986).**

- ~~44~~**10.** Open Space: Common usable open space shall be required for all residential development. There shall be one hundred (100) square feet of common usable open space required for each bedroom. Usable open space may consist of outdoor area on the ground, in required setbacks or on any balcony, deck, porch, or rooftop which is designed and accessible for outdoor living, recreation, and pedestrian access complying with the following provisions:
- a. Required parking areas and their driveways and required minimum landscaping areas shall not be included in computing usable open space.
 - b. Areas included in computing common usable open space shall be accessible to all units in common and no such required space shall be less than three hundred (300) square feet in area and shall have no dimension less than fifteen (15) feet. Rooftops gardens and rooftop landscaping may be used to satisfy this requirement. No more than 50% of the required usable open space area shall be hardscape (e.g. concrete, asphalt, etc.), except in the case of private open space provided on the upper floors of a structure as allowed under subsection g.
 - c. Each element of usable open space shall be completely open on at least one (1) side and shall have a clear vertical height of not less than seven (7) feet, and not less than fifty (50) percent of the total required usable open space shall be unobstructed to the sky.
 - d. Usable open space shall be improved to support passive or active use by residents. The computation of such open space shall include no obstructions other than devices and structures designed to enhance its usability, such as art, planters, benches, fountains, and landscaping.
 - e. Usable open space shall be situated and designed to minimize impacts from adjacent heavy commercial and industrial uses.
 - f. Where possible, pervious areas set aside as usable open space may also serve as areas for infiltration of stormwater runoff, subject to review and approval by the City Engineer.
 - g. Private usable open space may be substituted for common usable open space at a ratio three (3) square feet of private open space for every two (2) square feet of common open space required, provided such element of

open space either has an area of at least one hundred fifty (150) square feet, with no dimension less than ten (10) feet, if located at ground level, or an area of at least fifty (50) square feet, with no dimension less than six (6) feet, if located above ground level.

- h. The City Planner may waive the requirement to provide usable open space on-site if sufficient usable open space is proposed to be provided at a common off-site area.

~~12~~11. Site Plan Approval, as prescribed in Section 17.24.250, is required for new development, exterior additions to existing development, and the permanent or temporary placement and use of large stationary equipment outdoors. The Planning Commission may develop additional guidelines in written form that provides direction for meeting criteria listed in Section 17.24.250.

E. Performance Standards.

Projects must be designed and operated to comply with the following performance standards to minimize potential impacts during long-term operation. Special studies (e.g. noise studies, lighting plans, etc.), as determined by the City Planner, may be required to be submitted during processing of planning or building permit applications to provide evidence that compliance can be achieved prior to consideration of the project by the Planning Commission or issuance of building permits.

1. Toxic Substances. Any use which involves processes that will result in toxic substances or pollutants escaping (by air or water) from the site shall comply with all applicable Local, State and Federal regulations and shall require a use permit from the Planning Commission. Medical wastes are to be disposed of according to all applicable regulations. All processes shall comply with the applicable Local, State and Federal laws regarding airborne and waterborne emissions.
2. Signs. Any signs that will be used on-site, as well as signs on buildings, must be approved by the City Planner before they are posted. Free-standing signs shall be limited to 50 square feet in size and the top thereof shall not be higher than 10 feet above the ground. Signs shall be consistent with the general sign motif established for the Opportunity (O) Zone.
3. Lighting/Glare. ~~The type and usage of all outdoor lighting shall be the minimum lumens required, shall be directed downward, and shall be shielded or recessed so as to minimize light shining on adjacent properties or natural areas. Stand-alone light fixtures shall be limited to a maximum height of 30~~25 ~~feet vertical. No permanently installed lighting shall blink, flash, or be of unusually high intensity or brightness. No lighting shall produce an illumination level greater than one foot-candle beyond the property boundary of the site of the light source. Building materials or other site improvements that cause glare to nearby properties are prohibited.~~ Outdoor lighting shall be approved by the Planning Commission

through the Site Plan Approval process as specified in Section 17.24.250. **All outdoor lighting shall be designed to meet the following requirements:**

- a. **All lighting fixtures shall comply with the International Dark Sky Association's (IDA) requirements for reducing waste of ambient light ("dark sky compliant"). This includes, but is not limited to, requirements for acceptable fixture types and maximum color temperature.**
- b. **All lighting fixtures shall be the minimum lumens required for safety and security.**
- c. **All lighting fixtures shall be shielded and directed downward to minimize lighting shining on adjacent properties or natural areas. Shielded shall mean that the light rays are directed onto the site, and the light source (e.g., bulb, tube, etc.) is not visible beyond the property boundary of the site of the light source.**
- d. **No permanently installed lighting shall blink, flash, or be of unusually high intensity or brightness.**
- e. **Stand-alone light fixtures shall be limited to a maximum of 20 feet vertical.**
- f. **No lighting shall produce an illumination level greater than one-foot candle beyond the property boundary of the site of the light source.**

Building materials or other site improvements that cause glare to nearby properties are prohibited.

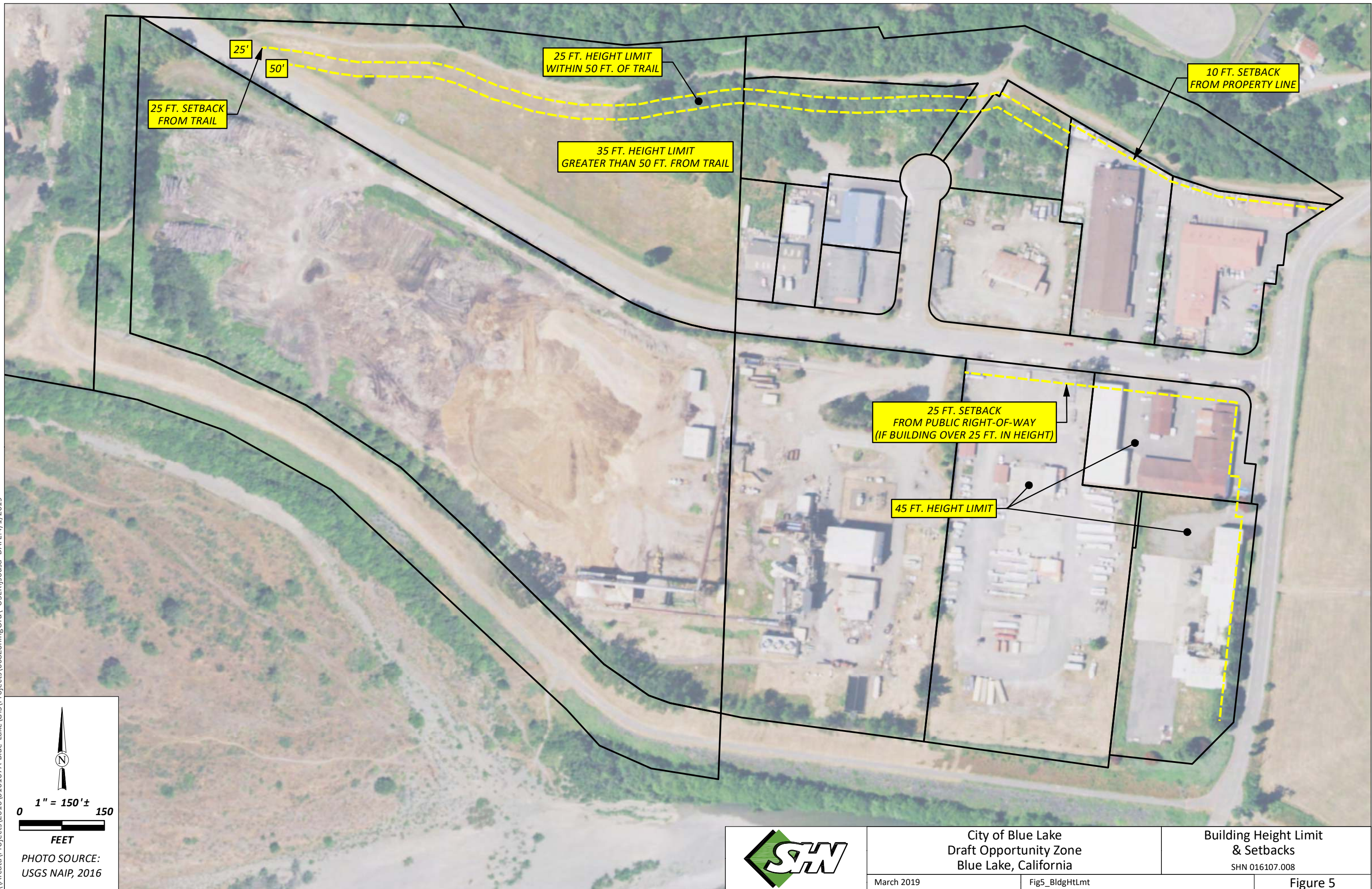
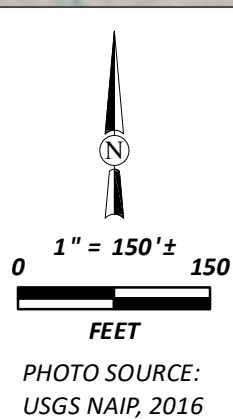
4. Noise.

- a. Any use that produces a sound level of 55 dBA-Ldn or more at the property line of a property containing a residential use is required to mitigate the sound to a level of less than 55 dBA-Ldn at that property line. No sound level greater than 70 dBA is allowed beyond the property line of a property containing a noise-generating use, except that no noise over 55 dbA is allowed between the hours of 10 p.m. and 7 a.m. Point sources of noise (e.g., compressors, generators, etc.) shall be located within an enclosure or attenuated with another equally effective method. Restrictions on operating hours and activities for businesses may be required to ensure compliance with these standards.
- b. Vehicles and equipment used outdoors on a consistent basis shall not utilize back-up alarms which are audible at any residential property, unless required by CalOSHA or other governmental regulatory agency for the

safety of employees or the public. This does not apply to delivery trucks, service vehicles, or equipment that are operated in City limits on an intermittent basis. If required by CalOSHA or other governmental regulatory agency, the required back-up alarm device or approved safety method shall be selected which has the least noise impact on surrounding residential properties and still allows for the reasonable operation of the business. Any business required by CalOSHA to use back-up alarms shall provide documentation to the City of this determination.

- c. Residential development shall be required to conduct exterior and interior noise analysis to ensure noise levels do not exceed 65 dBA at the outdoor activity areas and 45 dBA in the interior living spaces. Due to the mixed-use nature of the O Zone, it is recommended that structures be designed to provide a noise level of 35 dBA in the interior living spaces.
- 5. Dust. Any use that results in dust escaping from the site is required to mitigate to reduce the dust. Refer to North Coast Unified Air Quality Management District regulations for current limitations and requirements.
- 6. Sewage. Sewage disposal shall require on-site improvements (interceptor tanks, grease traps, etc.) for those uses that are determined by the Public Works Director to generate wastes that may cause a difficulty to the treatment system.
- 7. Odors. No use shall be permitted which creates annoying odor in such quantities as to be readily detectable beyond the boundaries of the zoning district.
- 8. Storage, Service and Loading Areas.
 - a. Storage, service and loading areas shall be recessed or screened with fences, walls, berms, or plantings to reduce their visibility from adjacent streets or properties.
 - b. Materials, equipment, supplies, trash containers, inoperable vehicles, etc. shall be stored within an enclosed building or behind visual barriers such as fences, walls, berms, or plantings.
- 9. No use shall be permitted which does not comply with State and Federal laws. (Amended by Ord. 490).

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City of Blue Lake
Draft Opportunity Zone
Blue Lake, California

Building Height Limit
& Setbacks
SHN 016107.008

March 2019

Fig5_BldgHtLmt

Figure 5


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PUBLIC RESOURCES CODE - PRC

DIVISION 15. ENERGY CONSERVATION AND DEVELOPMENT [25000 - 25990] (*Division 15 added by Stats. 1974, Ch. 276.*

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CHAPTER 12. Solar Shade Control [25980 - 25986] (*Chapter 12 added by Stats. 1978, Ch. 1366.*)

25980. This chapter shall be known and may be cited as the Solar Shade Control Act. It is the policy of the state to promote all feasible means of energy conservation and all feasible uses of alternative energy supply sources. In particular, the state encourages the planting and maintenance of trees and shrubs to create shading, moderate outdoor temperatures, and provide various economic and aesthetic benefits. However, there are certain situations in which the need for widespread use of alternative energy devices, such as solar collectors, requires specific and limited controls on trees and shrubs.

(*Added by Stats. 1978, Ch. 1366.*)

25981. (a) As used in this chapter, "solar collector" means a fixed device, structure, or part of a device or structure, on the roof of a building, that is used primarily to transform solar energy into thermal, chemical, or electrical energy. The solar collector shall be used as part of a system that makes use of solar energy for any or all of the following purposes:

(1) Water heating.

(2) Space heating or cooling.

(3) Power generation.

(b) Notwithstanding subdivision (a), for the purpose of this chapter, "solar collector" includes a fixed device, structure, or part of a device or structure that is used primarily to transform solar energy into thermal, chemical, or electrical energy and that is installed on the ground because a solar collector cannot be installed on the roof of the building receiving the energy due to inappropriate roofing material, slope of the roof, structural shading, or orientation of the building.

(c) For the purposes of this chapter, "solar collector" does not include a solar collector that is designed and intended to offset more than the building's electricity demand.

(d) For purposes of this chapter, the location of a solar collector is required to comply with the local building and setback regulations, and to be set back not less than five feet from the property line, and not less than 10 feet above the ground. A solar collector may be less than 10 feet in height only if, in addition to the five-foot setback, the solar collector is set back three times the amount lowered.

(*Amended by Stats. 2008, Ch. 176, Sec. 1. Effective January 1, 2009.*)

25982. After the installation of a solar collector, a person owning or in control of another property shall not allow a tree or shrub to be placed or, if placed, to grow on that property so as to cast a shadow greater than 10 percent of the collector absorption area upon that solar collector surface at any one time between the hours of 10 a.m. and 2 p.m., local standard time.

(*Amended by Stats. 2008, Ch. 176, Sec. 2. Effective January 1, 2009.*)

25982.1. (a) An owner of a building where a solar collector is proposed to be installed may provide written notice by certified mail to a person owning property that may be affected by the requirements of this chapter prior to the installation of the solar collector. If a notice is mailed, the notice shall be mailed no more than 60 days prior to installation of the solar collector and shall read as follows:

SOLAR SHADE CONTROL NOTICE

Under the Solar Shade Control Act (California Public Resources Code §25980 et seq.) a tree or shrub cannot cast a shadow greater than 10 percent of a solar collector absorption area upon that solar collector surface at any one time between the hours of 10 a.m. and 2 p.m. local standard time if the tree or shrub is placed after installation of a solar collector. The owner of the building where a solar collector is proposed to be installed is providing this written notice to persons owning property that may be affected by the requirements of the act no more than 60 days prior to the installation of a solar collector. The building owner is providing the following information:

Name and address of building owner:

Telephone number of building owner:

Address of building and specific location where a solar collector will be installed (including street number and name, city/county, ZIP Code, and assessor's book, page, and parcel number):

Installation date of solar collector:

Building Owner, Date

(b) If the owner of the building where a solar collector is proposed to be installed provided the notice pursuant to subdivision (a), and the installation date is later than the date specified in that notice, the later date shall be specified in a subsequent notice to persons receiving the initial notice.

(c) (1) A transferor of the building where the solar collector is installed may provide a record of persons receiving the notice pursuant to subdivision (a) to a transferee of the building.

(2) A transferor receiving a notice pursuant to subdivision (a) may provide the notice to a transferee of the property.

(Added by Stats. 2008, Ch. 176, Sec. 3. Effective January 1, 2009.)

25983. A tree or shrub that is maintained in violation of Section 25982 is a private nuisance, as defined in Section 3481 of the Civil Code, if the person who maintains or permits the tree or shrub to be maintained fails to remove or alter the tree or shrub after receiving a written notice from the owner or agent of the affected solar collector requesting compliance with the requirements of Section 25982.

(Repealed and added by Stats. 2008, Ch. 176, Sec. 5. Effective January 1, 2009.)

25984. This chapter does not apply to any of the following:

(a) A tree or shrub planted prior to the installation of a solar collector.

(b) A tree planted, grown, or harvested on timberland as defined in Section 4526 or on land devoted to the production of commercial agricultural crops.

(c) The replacement of a tree or shrub that had been growing prior to the installation of a solar collector and that, subsequent to the installation of the solar collector, dies, or is removed for the protection of public health, safety, or the environment.

(d) A tree or shrub that is subject to a city or county ordinance.

(Amended by Stats. 2008, Ch. 176, Sec. 6. Effective January 1, 2009.)

25985. (a) A city, or for unincorporated areas, a county, may adopt, by majority vote of the governing body, an ordinance exempting their jurisdiction from the provisions of this chapter. The adoption of the ordinance shall not be subject to the California Environmental Quality Act (commencing with Section 21000).

(b) Notwithstanding the requirements of this chapter, a city or a county ordinance specifying requirements for tree preservation or solar shade control shall govern within the jurisdiction of the city or county that adopted the ordinance.

(Amended by Stats. 2008, Ch. 176, Sec. 7. Effective January 1, 2009.)

25986. Any person who plans a passive or natural solar heating system or cooling system or heating and cooling system which would impact on an adjacent active solar system may seek equitable relief in a court of competent jurisdiction to exempt such system from the provisions of this chapter. The court may grant such an exemption

based on a finding that the passive or natural system would provide a demonstrably greater net energy savings than the active system which would be impacted.

(Added by Stats. 1978, Ch. 1366.)